

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
 (PCT Article 36 and Rule 70)

Applicant's or agent's file reference PPD 50679WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/01196	International filing date (day/month/year) 21.03.2003	Priority date (day/month/year) 28.03.2002
International Patent Classification (IPC) or both national classification and IPC A01N25/30		
Applicant SYNGENTA LIMITED et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I Basis of the opinion
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

Date of submission of the demand 13.10.2003	Date of completion of this report 01.07.2004
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**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/01196

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-12 as originally filed

Claims, Numbers

1-23 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages: . . .
- the claims, Nos.: . . .
- the drawings, sheets: . . .

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes:	Claims	2,9,13,15-23
	No:	Claims	1,3-8,10-12,14
Inventive step (IS)	Yes:	Claims	2,9,13,15-23
	No:	Claims	1,3-8,10-12,14

2. Citations and explanations

see separate sheet

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1) Reference is made to the following documents:

- D1:** EP-A-0 297 305 (HOECHST AG) 4 January 1989 (1989-01-04)
D2: WO 98 15181 A (ZENECA LTD ;WIKELEY PHILIP SIMON (GB)) 16 April 1998
(1998-04-16)

2) The present application relates to a low-foaming formulation of glyphosate comprising glyphosate and a poly(alkylene oxide) alkanol having the formula (I) given in the description and in Claim 1.

3) Re Item V

3.1 Novelty (Art. 33(2) PCT)

Document **D1** describes (cf. abstract, col. 2, l. 35-40, and examples 11-12) pesticide formulations comprising a mixture of at least three active agents and a combination of tensides containing an ethoxylated fatty alcohol. Preferred ethoxylated alcohols are those having 8-20 carbon atoms, particularly C₁₅-alcohols, and a degree of ethoxylation of 5-30, particularly 5-13. These alcohols are illustrated by the commercially available series ®Genapol-X. In examples 11 and 12 the pesticide formulations contain 0.5-2.0 wt.-% ethoxylated alcohol and 8-6 wt.-% glyphosate. These formulations anticipate the subject-matter of present claims 1, 3-8, 10-12, and 14.

3.2 Inventive Step (Art. 33(3) PCT)

According to the objection upon novelty raised herein above, the following examination in terms of inventive step has been restricted to those claims for which the subject-matter can be regarded as novel, namely claims 2, 9, 13, and 15-23.

Document **D2**, which is considered to represent the most relevant state of the art, discloses (cf. abstract) low-foaming, physically stable compositions comprising (i) glyphosate or a water-soluble salt thereof, (ii) an alkyl glycoside surfactant, and (iii) a quaternary ammonium salt surfactant. The subject-matter of claims 2, 9, 13, and 15-23 differs from **D2** in the nature of the antifoaming agent. The problem to be solved by the present application may therefore be regarded as providing an **alternative** low-foaming formulation of glyphosate.

There is no indication in the available prior art, that the particular polyalkyleneoxide

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alkanols of the application can be effective as antifoaming agents. Thus, the incorporation of these compounds as antifoaming agents in glyphosate formulations involves an inventive step.

3.3 Industrial applicability (Art. 33(4) PCT)

Is acknowledged for claims 1-23.

4) Further comments:

Claim 1 claims a composition comprising glyphosate and a "polyethylene oxide alkanol" having the formula (I). However, formula (I) is broader than "polyethylene oxide alkanol", since R₄ is an alkylene group containing 2 or 3 carbon atoms. This inconsistency leads to doubt about the scope of Claim 1, contrary to Article 6 PCT.

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